

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:07-00139

TERRY HEADEN

MEMORANDUM OPINION AND ORDER

The court is proceeding on its own motion, pursuant to 18 U.S.C. § 3582(c)(2), to consider defendant's eligibility for a reduction in his sentence based on a subsequent reduction in the applicable sentencing guideline. On April 30, 2014, the United States Sentencing Commission submitted to Congress an amendment to the federal sentencing guidelines that reduces the guidelines applicable to drug trafficking offenses. Specifically, Amendment 782 reduces by two the offense levels assigned in the Drug Quantity Table, resulting in lower guideline ranges for most drug trafficking offenses. Amendment 782, sometimes called "drugs minus two" or the "2014 drug guidelines amendment," took effect on November 1, 2014. On July 18, 2014, the Sentencing Commission voted to give retroactive effect to Amendment 782. Amendment 782 is however subject to the following limitation: "The court shall not order a reduced term of imprisonment based on Amendment 782 unless the effective date of the court's order is November 1, 2015, or later." U.S.S.G. § 1B1.10(e)(1). Counsel was appointed to represent defendant and the parties were directed to file memoranda in support of their positions.

The Court has received and considered the original Presentence Investigation Report (PSI), original Judgment and Commitment Order and Statement of Reasons, addendum to the PSI received from the Probation Office, and any materials submitted by the parties on this issue. The Court has also considered the applicable factors under 18 U.S.C. § 3553(a), consistent with § 3582(c)(2), and public safety.

The United States has indicated that it does not object to a reduction in the defendant's sentence.

Based on the foregoing considerations, the court **GRANTS** its own motion and **ORDERS** that defendant's previous sentence be reduced to 188 months on Counts One and Two, sentences to run concurrently. This Order is subject to the prohibitions contained within U.S.S.G. § 1B1.10(b)(2)(c) and U.S.S.G. § 1B1.10(e)(1).

The Clerk is **DIRECTED** to send a copy of this Memorandum Opinion and Judgment Order to defendant, the Federal Public Defender, counsel of record, the United States Marshal for the Southern District of West Virginia, and to the United States Probation Office for forwarding to the Sentencing Commission and Bureau of Prisons.

IT IS SO ORDERED this 21st day of April, 2016.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge